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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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DOUG MASSEY,

Plaintiff,

v.

EBIX, INC. a Delaware corporation,

Defendant.

**MEMORANDUM DECISION AND  
ORDER GRANTING MOTION TO  
CONTINUE FINAL PRETRIAL AND  
TRIAL**

Case No. 2:14-cv-00897-DN

District Judge David Nuffer

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Defendant moves for a continuance of the final pretrial conference and one-day bench trial (“Motion”).<sup>1</sup> For the reasons discussed below, the Motion is hereby GRANTED.

The following factors are considered when deciding a motion to continue trial:

[1] the diligence of the party requesting the continuance; [2] the likelihood that the continuance, if granted, would accomplish the purpose underlying the party's expressed need for the continuance; [3] the inconvenience to the opposing party, its witnesses, and the court resulting from the continuance; [4] the need asserted for the continuance and the harm that [movant] might suffer as a result of the district court's denial of the continuance.<sup>2</sup>

First, it appears the Defendant was diligent in contacting Plaintiff’s counsel the same day it received a letter from a district court in Texas informing them that their two-week jury trial in Texas was rescheduled to start August 23, 2016. Second, a short continuance would allow Defendant’s counsel to conduct the two-week jury trial in Texas and then have sufficient time to prepare for a one day bench trial in this case. Third, it does not appear that Plaintiff will suffer

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<sup>1</sup> Motion to Continue Final Pretrial Conference and Bench Trial, [docket no. 29](#), filed July 1, 2016.

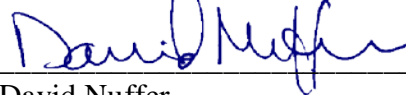
<sup>2</sup> *Rogers v. Andrus Transp. Servs.*, 502 F.3d 1147, 1151 (10th Cir. 2007) (quoting *United States v. West*, 828 F.2d 1468, 1470 (10th Cir. 1987)).

much inconvenience with a short two week continuance.<sup>3</sup> Plaintiff contends that Defendant, a publicly traded company, “has made offers of cash and stock to purchase other companies, and has announced its intent to conduct a reverse stock split and to borrow additional funds, each of which could adversely affect the value of any stock or other damages which may be awarded to plaintiff in this litigation.”<sup>4</sup> Without more information, this contention seems speculative. Finally, denying the continuance would be prejudicial to Defendant who would either proceed with a less experienced attorney from its counsel’s firm, or would have to find new representation less than six weeks from trial. The above factors weigh in favor of granting a short two-week continuance

Accordingly, the Motion<sup>5</sup> is GRANTED. The final pretrial conference is continued to September 8, 2016 at 3:30 p.m. and the one-day bench trial is continued to September 19, 2016.

Dated July 22, 2016.

BY THE COURT:



David Nuffer  
United States District Judge

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<sup>3</sup> See Declaration of Michael Smith in Opposition to Ebix’s Motion to Continue Final Pretrial Conference and Bench Trial, [docket no. 30](#), filed July 1, 2016.

<sup>4</sup> *Id.* at 1-2.

<sup>5</sup> [Docket no. 29](#).